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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,526	08/28/2003	Mark D. Tatton		6793

7590 09/01/2005

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EXAMINER

AGARWAL, MANUJ

ART UNIT PAPER NUMBER

3764

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/650,526	<b>Applicant(s)</b> TATTON, MARK D.	
	<b>Examiner</b> Manuj Agarwal	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 1-3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

The abstract of the disclosure is objected to because it exceeds the length limit of 150 words. Correction is required. See MPEP § 608.01(b).

It is suggested that a selection of information from page 10 and 11 be moved to the appropriate section of the specification, the Brief Summary of the Invention.

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

The disclosure is objected to because of the following informalities: The definition and details of the "extension spring" is set forth on page 6 under head assembly, after the term had been used several times on the preceding page. It is suggested to be moved to more clearly set forth the definition of the "extension spring" before it is mentioned. Appropriate correction is required.

The disclosure is objected to because of the following informalities: Page 4, entitled Drawing Reference Numerals Worksheet, is illegible. Removal of underlining is suggested.

### ***Claim Objections***

Claims 1 and 3 are objected to because of the following informalities: The word neck is misspelled as "kneck," implying a definition that deals with the twisting of rope. It has been assumed that the word neck was intended and the claims have been analyzed as such.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2, and 3 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Regarding Claim 1, it is not evident what is intended by the statement "in combination structures resembling" a plurality of human like body parts. Is every one of the said body parts claimed as part of the invention, or can a selection be

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made from the list. A selection of two or three body parts is also considered a combination.

Part (d) is ambiguous for the support means was not referred to in the specification, and there isn't sufficient structure present to perform the function of the claim. It is not clear what is meant by a "support means for a plurality of holes." It is also not clear how the recited means for holes provides the recited movement.

Part (e) is unclear, for it does not clearly state what is being "connected, joined and secured." At the end of part (e), it is not clear what is intended to comprehend "support structures" or how the means for connecting is for "securing at predetermined locations support structures."

Regarding Claim 2, using the word "can" in the statement "can perform a variety of forms of," the claim implies that it is a possibility or probability that these actions can be conducted. They are not necessarily required, but are merely a capability of the device. This fails to clearly state and positively set forth what applicant believes is the invention.

Regarding Claim 3, (a) is unclear whether the totality of the human like parts are formed into a kneeling on all fours position, or is merely the torso and hip.

In (b) it is unclear whether "said support structure refers to the support structure in claim 1 under (e), or the support structure of claim 3.

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Claim 3 further recites the limitation "said plurality of attaching and joining" in part (c). There is insufficient antecedent basis for this limitation in the claim, for a plurality of "attaching and joining" was not previously stated

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Spector (6,155,904).

Spector discloses a wrestling doll that functions as an exerciser. When a user free-style wrestles with the doll, he/she exerts various sets of muscles, promoting his/her general state of fitness. He states that free-style wrestling engages the entire body of each wrestler and enlists virtually all of the muscles of the body (page 1 lines 24-26).

Regarding claim 2, it is evident that the doll functions as a physical fitness device. While wrestling, the device is pushed at specific locations when "crunching" the head against the torso (page 1 line 51-52) or when pinning the shoulders of the device to the floor (lines 23-24). The device is pulled at specific locations when pulling arm appendages 13 and 14 away from torso 12. Use of the device in the manner specified could result in weight loss, for the user is exerting force which requires the burning of calories. The device can be used to perform cardiovascular workout techniques by causing a temporary increase in heart rate. Self-defense, martial arts, and law enforcement can be taught, for the

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user is learning to grapple. Muscle strengthening can also be performed by the pulling and pushing action.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Hastey (6,494,763).

As broadly recited, Hastey teaches a support structure that is a life-like doll 100 that resembles a human body, having a head 15, a neck section 46, a pair of shoulders 27, a pair of calves, a pair of thighs, a torso and a hip 68.

Upper arm link 30 has a ball 26 secured into a ball socket in the shoulder socket frame 24 by a groove retainer 28. This socket serves as a hole. As a result, the upper arm link 30 can pivot both vertically and longitudinally relative to the chest frame 20. "Referring to Figures 7A and 7B, the upper and lower spine sections 56 and 60 have a flange 57 with a through hole 59, forming part of the pivot joint 21. A slot 61 is formed between flange plates 63, spaced apart to receive the flange 57 of an adjacent spine section. Friction may be created in the various pivot joints by having the flange 57 dimensioned to be slightly wider than the groove 59, so that the sides of the groove 59 press in slightly on the flange 57, creating a friction joint." (Column 4, lines 14-23)

Turning now to FIG. 8, the hip or pelvis section 68 includes hip sockets 70, a hole. A thigh link 72 has a hip ball 74 retained within the hip socket 70, to form a hip joint, similar to the shoulder joint formed by the shoulder ball 26 and socket frame 24, as described above.

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The joints described above, as well as the many other joints of the doll have resistance to movement, via friction or a detent (see abstract). Detail is provided on column 4 lines 15-24 which states that friction may be created in the various pivot joints by having the flange 57 dimensioned to be slightly wider than the groove 59, so that the sides of the groove 59 press in slightly on the flange 57, creating a friction joint.

Regarding claim 3, it is apparent that Hastey's life-like doll is an analogous device. It too contains the said plurality of human like body parts and has a plurality of holes at predetermined locations. These holes function to attach and join the multitude of body parts, as well as to facilitate joint-like movement and resistance to the device when force is applied. The doll is capable of being formed into a "kneeling on all fours position," for the joint-like movement allows the knees to bend and the arms to extend. The arms can be extended away from the shoulders and elbows bent in order to establish a sufficient amount of balance to maintain the kneeling on all fours position.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector in view of Katz (3,029,552).

Spector discloses a wrestling doll formed of a combination of human like body parts, namely a head 10 joined by its neck 11 to a torso 12, that includes a pair of shoulder region from which a pair of arm appendages extend (13 and 14), and a pair of leg appendages (15 and 16) that extend from region resembling a hip. The doll is designed to function as a surrogate for a wrestling opponent for a boy ages 3-8, and is appropriately three feet in height.

The said leg and arm appendages are each spring-biased and therefore offer physical resistance to their manipulation (page 2 lines 20-22). Similarly, the head is attached to a primary spring unit 19 that serves as a source of resistance. In a particular embodiment, the springs of the appendages are coupled by ratchet mechanisms  $25R_1$  and  $25R_2$  to a yoke 26. Such an assembly allows rotation about the yoke and stretching away from the yoke.

The doll is fabricated from an outer fabric or soft plus casing 17 that is stuffed with compressible material (page 3 lines 14-17).

Regarding Claim 1, it is apparent that Spector's wrestling doll is nearly an analogous structure to the claimed invention. The doll is clearly a human being sized device comprising a combination of structures resembling the shapes of the plurality of body parts. It too is capable of joint like movement by rotation of said springs about the yoke 26 due to ratchets  $25R_1$  and  $25R_2$ . Due to the fact that springs are utilized, a plurality of resistance is achieved when force is applied by a user to said body parts. The hole in yoke 26 that is present in both

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the upper and lower part of the said embodiment constitutes a plurality of holes that enables said movement and resistance, for it here that the springs are inserted. Lastly, the doll is provided with an outer casing that provides padding over the entire device.

Spector lacks a means for providing a static position that resembles an all fours doggie-like position or a human on hands and knees position. However, it is convention that wrestling matches begin in an all fours position. The examiner is taking official notice that it is common knowledge that in the sport of wrestling it is of convention for competition to begin with opponents in an all fours position.

Moreover, attention is directed to the Katz reference which discloses an animated doll in the form of a baby. The doll is shown in Figures 7 and 8 to be on hands and knees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a means for maintaining a hands and knees position to Spector's wrestling doll in order to more accurately simulate a wrestling training environment and further suggested by Katz.

### ***Conclusion***

Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

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An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning  
facsimile transmissions and mailing, respectively.

The prior art made of record and not relied upon is considered pertinent to  
applicant's disclosure.

1. US 6139328. Picotte; Brett H. Grappling dummy and production thereof.

Human-sized grappling dummy, useful as a mock opponent for exercise or  
practice for athletes training for competitive martial art or wrestling purposes, as  
well as for practicing self-defense moves.

2. US 6155960. Roberts, et. al. Training dummy assembly in human form.

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Dummy mimics realistic human movements and reactions to forces extended onto the dummy by a user, joint-like movement and a returning means securely attached to the dummy for returning the upper arm and torso back to their initial positions after having a twisting, restraining, or striking force exerted upon the dummy.

3. US 6074270. Wilcox et. al. Support system and flexible integument for dolls.

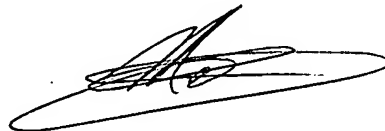
A doll having a natural appearance, a natural feel, and natural motion has an internal support system covered by a flexible integument.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuj Agarwal whose telephone number is (571) 272-4368. The examiner can normally be reached on Mon to Fri 8:30 AM 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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